

**Ravalli County Planning Board
Meeting Minutes for November 5, 2008
7:00 p.m.
Commissioners Meeting Room, 215 S. 4th Street, Hamilton, Montana**

Public Hearing
Rivers Edge II Major Subdivision (Flyhigh Developers Corporation)

*This is a summary of the meeting, not a verbatim transcript. A CD of the meeting
may be purchased from the Planning Department for \$5.00.*

1. Call to order

Lee called the meeting to order at 7:03 PM

2. Roll Call (See Attachment A, Roll Call Sheet)

(A) Members

Mary Lee Bailey (present)
Dale Brown (present)
John Carbin (present)
Jim Dawson (present)
Ben Hillicoss (present)
Dan Huls (absent - unexcused)
JR Iman (present)
Lee Kierig (present)
Chip Pigman (absent - excused)
Les Rutledge (present)
Jan Wisniewski (absent - unexcused)

Park Board Representative: Bob Cron (present)

(B) Staff

John Lavey
Randy Fifrick
Danielle High

3. Approval of Minutes

Lee asked if there were any corrections or additions to the minutes from October 1, 2008.
There were none. The minutes were approved.

4. Amendments to the Agenda

There were none.

5. Correspondence

There was none.

6. Disclosure of Possible/Perceived Conflicts

There were none.

7. Public Meeting

(A) Rivers Edge II Major Subdivision (Flyhigh Developers Corporation)

- (a) Staff Report on the Proposal: **Randy Fifrlick** gave a PowerPoint presentation. He gave an overview of the proposal and stated Staff recommends conditional approval of the subdivision, subject to the conditions in the Staff Report. (See Attachment B, Rivers Edge II Staff Report)

- (b) Presentation by Subdivider's Representative

Gordon Sorenson, of Gordon Sorensen Engineering, said that he looked over the staff report and had one issue to address. Condition number 12 requires a 100-foot setback, as recommended by the Ravalli County Floodplain Administrator, Laura Hendrix. She stated that there is a chance that the river will erode back into the southwest corner, which is a cause for concern. Gordon stated that it was an impossibility because the west boundary of the property is heavily vegetated with brush, grasses, and is heavily root bound, causing the water to be slow-moving and to act more like a storage unit in a flooding event. The risk of losing anything is zero; there is no risk. He also stated that page 10 of the Staff Report states that the property is along the Bitterroot River; that is untrue. There is another property between the river and the proposed subdivision, which is owned by Dr. Quick's family. The Staff Report also states that the subject property is about three and a half miles away from the Fire Station. It is that far from Stevensville, but Three Mile Rural Fire District has a substation about a half mile away.

Kirby Christian stated that he would like to see an amendment to Condition 12 to show on the map that there will be a no-build zone on the upper crest of the hill, which is on the back side of the vegetation, which is about 100 feet from the floodplain. If the bank does decide to roll back, the no-build zone would not be in any of the natural vegetation.

- (c) Acceptance of written public comments to transmit to the Ravalli County Commissioners, and a brief explanation of effective ways for the public to comment on subdivision proposals

Ed and Katherine Quick submitted a written comment. (See Attachment C, Comment from Ed and Katherine Quick)

- (d) Board Deliberation and Recommendation

Lee proposed amending the original 3-minute allowed time for Board members to speak to five minutes.

The vote was called; the members voted (9-0) to approve the motion.

Ben Hillicoss asked how far it is from the top of the bench to the high water mark.

Gordon answered that it was 31 to 32 feet.

Ben asked if it there was only 32 feet of riparian vegetation to the high water mark.

Gordon replied that the vegetation goes on out.

Ben asked how far it was from the high water mark to the no-build zone.

Gordon answered that is about 240 feet.

Les asked where the possible rip rap would occur because the applicant's property does not go to the river.

Ed Quick said it would start at the end of the current spot where the rip rap is. If they started where the current rip rap ends, it would cause more damage. The river wants to go in that area. If they put new rip rap in it, it would speed up the flow of the river and it would take out more of his land. He showed on the map the south end of his property where he has lost part of his property.

JR asked if Ed owned the property to the west of this property out to the river entirely along the west side.

Ed Quick said he did.

JR asked if it goes southwest of that to the point.

Ed replied that there is a gap between his property and Rivers Edge I of a fifteen-foot section; he is not sure who owns it.

JR asked if Ed owned the entire west side of the proposed subdivision.

Ed replied that he did.

Lee stated in accordance with Title 76-3-102, he is wondering how item number five, which states that subdivisions must be in harmony with the natural environment, is being handled.

Gordon replied that there is a spot that is a no-build zone. It is a heavy brush area that is located closer to the river area, and it will not be disturbed. The only area that will be disturbed is out in the front and is a hayfield.

Lee noted that this subdivision is exempt from the interim zoning ordinance. He stated that state law says subdivisions should promote more cluster developments to reserve more open space. He asked why this proposal was not a cluster developments and why it did not have a common septic system. He asked if groundwater was high there.

Gordon replied that the groundwater is not high there. The spacing of the nine residences is consistent with the residences around the property and is consistent with the rural non-clustered surroundings.

Lee expressed that there must be some reason that Laura, our floodplain administrator, had concerns about the long-term safety of that bank.

John Carbin asked how the applicant replied to the Quick's concerns about losing more of their property due to rip rap.

Gordon replied that he has a hard time believing that the river will turn into the bank or come near the Quick's property because it has already turned west.

Ben said that he regrets ever voting to pass the Rivers Edge I subdivision because of the long-term problems with the homes there. There is not a very wide buffer there between the no-build zone. Lots 4 and 8 of Rivers Edge II could be built in some exposure and he recommends that the Commissioners follow what Laura said about the 100 year floodplain. Also, Eastside Highway is

a very dangerous highway and there are a lot of accidents on that road from the subject property to the bridge. He said that he is opposed to this subdivision.

Bob said that in addition to the cash-in-lieu of parkland dedication, the Park Board would like to see a five-foot ADA-standard path from the cul-de-sac out to where the kids would catch the bus at the bus shelter.

JR said that the subdivision finishes the area and it is similar in development to the surrounding area. In lieu of the 100-foot setback that Laura recommended, he would like to see them maybe come to an agreement and put in soft structures. They cannot protect someone else's property. He said that he is in favor of their no-build zone that is all they can offer and it does protect the backside. There is a heavily-wooded area and from a conservation standpoint, this is what we want.

Les expressed his concern with the continuous erosion of the southwest corner and that this is a concern.

Dale recommended that maybe they come to some kind of agreement to extend the rip rap out to try and protect the property from any further damage by the river.

Jim asked Mr. Sorenson if he had looked at any photographs of the history of the west bank.

Gordon replied that he had not looked into any.

Jim then expressed his concern with the downstream erosion.

John said that he shares the concerns of more damage to the land from the rip rap. He also has concerns for safety on the Eastside Highway because of the increasing traffic caused by subdivisions. He said that according to the Planning Department, there was no word from the Sheriff's office concerning this subdivision and they are on record as saying that they do not want any additional subdivisions being approved until they receive more funding. For these reasons, he has grave concerns about any more subdivisions on the Eastside Highway.

Mary Lee expressed her concern that where the rip rap stops is where the water digs in. All they are going to be doing is putting band aids on it. Her concern was the corner lot. All it will take is high water to take that corner out. She also did not like the idea of putting a septic system so close to the river.

Lee expressed that there are many factors in the community that have crashed such as the Sheriff system, ambulance system, and the road system. The fire system is pretty good, but the mitigation for fire is 50 to 100% short. The \$500-per-lot contribution is not efficient enough. The river is also concerning because all it would take is one storm and it would take that whole corner out. He agrees that with this subdivision going through would finish the surrounding development area. He also would like to have seen the buildings be more clustered together to have more open space available and access to the river for everyone to enjoy. It could have had a common septic system away from the river.

Les mentioned that in Laura's memo that the developer must allow for channel migration of the river and bank erosion. She never mentioned rip rap in the memo or that it may or may not work. He stated that they had already approved

one subdivision that has lost most of their land due to the river taking out the bank. Water is an unpredictable element when it is high.

Ben stated that a couple people mentioned that rip rap is a solution and it is the wrong solution. Moving the dwellings and lots back is the right solution. If you use rip rap, it is only causing the damage to move downstream and that causes it to be a channeled river and not the free flowing river that it is now.

Randy asked if the Board would like to vote on whether the proposed mitigation was sufficient in regards to the Six Criteria.

A voice vote was called; the members voted (9-0) to approve Randy's suggestion.

(1) Review of Subdivision Proposal Against the Six Criteria

a. Effects on agriculture.

One Member thought that the proposed mitigation was not sufficient. Seven thought that the mitigation was sufficient.

b. Effects on Agricultural water-user facilities.

Seven Members agreed that the mitigation was sufficient; one member abstained.

c. Effects on local services

One Member stated that the mitigation proposed was sufficient. Seven Members thought the mitigation was not sufficient.

d. Effects on the natural environment

Three Members agreed the mitigation was sufficient; five Members thought the mitigation was not sufficient.

e. Effects on wildlife and wildlife habitat, including fisheries and mammals.

All eight Members agreed the mitigation was sufficient.

f. Effects on public health and safety

One Member said the mitigation was sufficient; seven Members thought the mitigation was not sufficient.

(See Attachment D, Rivers Edge II Six Criteria Review Sheet)

Lee summarized that a majority of the Board did not find the proposed mitigation sufficient for Criteria 3, 4, and 6.

Ben made the motion to deny the subdivision for lack of mitigation of the concerns raised.

John seconded the motion

A vote was called; the members voted (5-3) to approve the motion and deny the subdivision. (See Attachment E, Rivers Edge II Vote Sheet)

8. Communications from Staff

- (A) Special Meeting with the Commissioners on November 13, 2008 at 3:00 PM: Discussion on Post-Vote Planning Department Priorities

John addressed that this meeting was to discuss the Planning Department priorities now that the Growth Policy was repealed. There are two concept options; he said that he was not going to go into it at this time, because he would like to save the discussion until the meeting on November 13. He also said that he talked to the Commissioners and they may ask the Planning Board to attend the meeting as members of the public because they do not want to confuse anyone about who has the power during the meeting.

The Planning Board all agreed that they would like to be seen as a Board and asked John Lavey to communicate this to the Commissioners.

JR asked if the Planning Board would be disbanded due to the Growth Policy repeal.

John replied that he did not think it would be.

- (B) Special Project: Airport Affected Area

John stated that in order to increase capacity to coordinate together, in 2005 the Federal Government asked the State Government to force the Local Government to have an Airport Affected Area. The Federal Government said that Ravalli County has to adopt land use regulations for this area, He asked the Board to work on this project by creating some very specific land use regulations for the Airport Affected Area. He said that the entire Board could work on the project, but he recommended that they create a sub-committee that reports back to the Board. John said that he would type up a memo and send it to the Board to let them know what exactly he is asking them to do and what they would have to do if they agree to help on this project.

Lee suggested that putting the item on the agenda for the next Planning Board meeting.

9. Communications from Public

There was none.

10. Communications from The Board

Lee addressed the lack of unity between the Board, Planning Department and the Commissioners. He said that he was contacted by the Political Practices Office in Helena about the Support Countywide Zoning banners that he put up. He said that he would have liked to have seen more support by the Planning Board because they helped come up with the plan to make the banners. He said that the Planning Department was contacted and was part of the complaint because their number was on the banner.

11. New Business

There was none

12. **Old Business**

There was none.

13. **Next Regularly Scheduled Meeting: November 19, 2008 at 3:00 p.m.**

(A) Mountain View Orchards, Block 14, Lot 15A, AP "Cottonwood Meadows" – Public Hearing

14. **Adjournment**

Lee adjourned the meeting at 9:36 p.m.